III. REMARKS

Claim Status

Claims 1-12 and 17-20 are pending.

Claim *Rejections* - 35 USC § *103(a)*

Claims 1-7, 10-12, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beecher et al. (WO 00/67293) in view of Dreyfus (USP 5,854,486).

1. The Present Invention

As disclosed in the published application, applicant's invention is as follows:

> "In a preferred embodiment of the present invention, the surface formation is configured as a single use article. A surface formation with several layers and a first layer with an ultraphobic surface, and a carrier layer, with the first layer being applied reversibly to the carrier layer, and the maximum local flatness deviation of the surface formation being 100 µm, preferably < 20 µm on a length of 100 mm, is particularly suitable for this embodiment."

2. The Rejection

The examiner states that the combination of Beecher et al. and Dreyfus render applicant's invention obvious.

As stated by the examiner, Beecher et al. teach a MALDI sample carrier with a surface formation with a multitude of MALDI matrix points, characterised in that the MALDI matrix points are deposited from the liquid phase where there is an ultraphobic surface and substrate layers.

Beecher et al. teach the thickness is preferably 100 microns thick.

Beecher et al. is silent about deviations in the MALDI matrix in general and as noted by the examiner is silent as to the deviation being <100 micrometers

over 100mm.

The examiner attempts to fill this lacuna by citing Dreyfus. As stated by the examiner, Dreyfus teaches a MALDI sample carrier in which the matrix material is deposited from the gas phase onto a substrate by sublimation where the **film 20** is preferably thicker than 1 nm, more preferably thicker than 10 nm, and most preferably thicker than 100 nm [=0.1 micron or 0.1 millimeter].

Applicant notes that Dreyfus is speaking only of the film 20 and not of the entire coating.

Again as stated by Dreyfus, as the films grown thicker than 1 micron [=1,000 nanometers], the surface becomes rougher. However, Dreyfus states the method may still be used to produce **films 20** of 10 microns and thicker. The thickness uniformity of the film across the area to be illuminated by a laser beam is preferably more uniform than +/-50%, and most preferably more uniform than +/-10% of the average film thickness.

As calculated by the examiner, if the variation is 10% and the thickness of the film 20 is 10 microns, the deviation of film 20 would be 1 micron. Extending that argument, if the thickness of the film 20 is 100 nanometers as suggested by Dreyfus and the deviation is 10% the deviation would be 0.1 micron.

The numbers derived from this analysis clearly demonstrate that the examiner is comparing "apples to oranges". Applicant would clearly not be claiming a deviation of 100 microns or less where the prior art already suggests a deviation of 0.1 micron or less.

The "apples" of Dreyfus are concerned with the deviation of the film 20. The "oranges" of applicant are concerned with the deviation of the entire surface formation.

As Dreyfus nowhere indicates a deviation parameter for the entire surface formation and therefore the examiner is incorrect when stating that Dreyfus reads on applicant's claimed deviation of the entire surface formation of <100 micrometers.

It is desirable to provide the film with a uniform thickness more uniform than +/10% as pointed out by Dreyfus but here again Dreyfus is referring solely to the surface film 20 and does relate to applicant's claimed surface formulations.

Thus, neither Beecher et al. nor Dreyfus, alone or in combination disclose or suggest an entire surface formation where the deviation is <100 micrometers. One skilled in the art, even if motivated to combine the teaching of Beecher et al. and Dreyfus, would not arrive at the applicant's contribution to the art – the provision of surface formulations that have a deviation of <100 microns in 100 millimeters.

Therefore there is no prima facie case of obviousness made and applicant respectfully prays for favorable reconsideration of this ground for rejection.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beecher et al (WO 00/67293) in view of Dreyfus (USP 5,854,486) and further in view of Nelson et al (USP 5,955,729).

Beecher et al. and Dreyfus are discussed above.

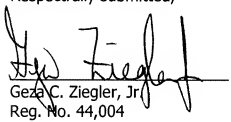
Claims 8 and 9 are indirectly dependant upon claim 1 and as such contain the limitations of claim 1. Nelson et al. do not discuss or suggest the importance of maintaining the deviation of the surface formation at less than 100 microns in 100 millimeters and thus does not fill the lacuna present in the examiner's argument.

Applicant has met his burden, the *prima facie* case proposed by the examiner does not exist and it is submitted that the ground for this rejection has been obviated.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for the extension of time as well as any other fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



Geza C. Ziegler, Jr.
Reg. No. 44,004

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Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512